

AMENDED IN ASSEMBLY APRIL 6, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 613**

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**Introduced by Assembly Member Chu**

February 24, 2015

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An act to amend Section 17602 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL’S DIGEST

AB 613, as amended, Chu. Automatic renewals: cancellations: notice to consumers.

Existing law makes it unlawful for any business making an automatic renewal or continuous service offer to a consumer in this state to, among other things, fail to present the automatic renewal or continuous service offer terms in a clear and conspicuous manner.

This bill would require the cancellation policy *of a personal, nonessential services contract, as defined*, in any automatically renewed contract under these provisions to include the right of the consumer to cancel for any reason upon 30 days’ written notice to the business and also include a statement describing the procedure to cancel the contact. The bill would permit the company to charge a cancellation fee, not to exceed 3 months’ charges, for a cancellation within the contract term.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17602 of the Business and Professions
- 2 Code is amended to read:

1 17602. (a) It shall be unlawful for any business making an  
2 automatic renewal or continuous service offer to a consumer in  
3 this state to do any of the following:

4 (1) Fail to present the automatic renewal offer terms or  
5 continuous service offer terms in a clear and conspicuous manner  
6 before the subscription or purchasing agreement is fulfilled and  
7 in visual proximity, or in the case of an offer conveyed by voice,  
8 in temporal proximity, to the request for consent to the offer.

9 (2) Charge the consumer's credit or debit card or the consumer's  
10 account with a third party for an automatic renewal or continuous  
11 service without first obtaining the consumer's affirmative consent  
12 to the agreement containing the automatic renewal offer terms or  
13 continuous service offer terms.

14 (3) (A) Fail to provide an acknowledgment that includes the  
15 automatic renewal or continuous service offer terms, cancellation  
16 policy, and information regarding how to cancel in a manner that  
17 is capable of being retained by the consumer. If the offer includes  
18 a free trial, the business shall also disclose in the acknowledgment  
19 how to cancel and allow the consumer to cancel before the  
20 consumer pays for the goods or services.

21 (B) The cancellation policy *of a personal, nonessential services*  
22 *contract* shall include a consumer's right to cancel, regardless of  
23 reason and include a statement informing the consumer of the  
24 procedure to cancel the contract. *For the purposes of this*  
25 *subparagraph, "personal, nonessential services contract" means*  
26 *a fitness club contract, martial art school contract, gymnastics*  
27 *facility contract, or dance school contract.* The cancellation shall  
28 be given in writing to a business 30 days before the date that the  
29 consumer would like the contract to end. A cancellation fee, not  
30 to exceed three months' charges, may be charged to a consumer  
31 who cancels before the term of the contract.

32 (b) A business making automatic renewal or continuous service  
33 offers shall provide a toll-free telephone number, ~~electronic mail~~  
34 *email* address, a postal address only when the seller directly bills  
35 the consumer, or another cost-effective, timely, and easy-to-use  
36 mechanism for cancellation that shall be described in the  
37 acknowledgment specified in paragraph (3) of subdivision (a).

38 (c) In the case of a material change in the terms of the automatic  
39 renewal or continuous service offer that has been accepted by a  
40 consumer in this state, the business shall provide the consumer

1 with a clear and conspicuous notice of the material change and  
2 provide information regarding how to cancel in a manner that is  
3 capable of being retained by the consumer.

4 (d) The requirements of this article shall apply only prior to the  
5 completion of the initial order for the automatic renewal or  
6 continuous service, except as follows:

7 (1) The requirement in paragraph (3) of subdivision (a) may be  
8 fulfilled after completion of the initial order.

9 (2) The requirement in subdivision (c) shall be fulfilled prior  
10 to implementation of the material change.